

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2005-5
R. RAPELYEA HOWELL,)	
License No. LCSW-484,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
Respondent.)	FINAL ORDER
)	

SWO\Howell\P5069lga

Having reviewed the documents and correspondence contained in the administrative file in this matter, the Idaho State Board of Social Work Examiners (the "Board") hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. Respondent R. Rapelyea Howell ("Respondent") is a duly licensed social worker in the State of Idaho holding License No. LCSW-484.

2. On or about November 4, 2004, an Information was filed against Respondent in United States v. Howell, United States District Court for the District of Idaho Case No. CR-04-0221-S-EJL, alleging that Respondent possessed child pornography. A true and correct copy of the Information in Case No. CR-04-0221-S-EJL is attached hereto as Exhibit 1.

3. On or about November 15, 2004, Respondent entered a plea of guilty pursuant to a plea agreement in Case No. CR-04-0221-S-EJL. A true and correct copy of the Waiver of Indictment and Plea in Case No. CR-04-0221-S-EJL is attached hereto as Exhibit 2.

4. On or about December 17, 2004, Respondent voluntarily surrendered his license, admitting to violations of the Social Work Licensing Act, title 54, chapter 32, Idaho Code. A true and correct copy of the voluntary surrender form signed by Respondent is attached hereto as Exhibit 3.

5. On January 24, 2005, a judgment was entered against Respondent for possession of child pornography, a felony, in violation of 18 U.S.C. § 2252(a)(4). A true and correct copy of the Judgment in a Criminal Case in Case No. CR-04-0221-S-EJL is attached hereto as Exhibit 4.

6. Respondent knowingly and freely waived his right to a hearing, and waived all rights granted to Respondent pursuant to the Administrative Procedures Act, chapter 52, title 67, Idaho Code.

CONCLUSIONS OF LAW

1. As a licensed social worker in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 32, Idaho Code, and the rules and regulations promulgated by the Board thereunder.

2. The allegations as set forth above, if proven, would constitute violations of the Social Work Licensing Act and rules of the Board and would constitute grounds for revocation or suspension of Respondent's license to practice social work pursuant to Idaho Code § 54-3211(1) and (6).

3. Respondent's voluntary surrender of licensure authorizes the Board to revoke or suspend Respondent's license without further process pursuant to Idaho Code § 54-3204(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, that License No. LCSW-484, including any renewal rights under Idaho Code § 67-2614, issued to Respondent R. Rapelyea Howell is hereby permanently REVOKED. This order is effective immediately.

DATED this 4TH day of April, 2005.

IDAHO STATE BOARD OF
SOCIAL WORK EXAMINERS

By 
~~Robert Payne~~, Chair

NOTICE OF DUE PROCESS RIGHTS

NOTE: THIS NOTICE IS PROVIDED SOLEY FOR COMPLIANCE WITH IDAHO CODE § 67-5248, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- a. A hearing was held,
- b. The final Board action was taken,
- c. The party seeking review of the order, resides, or
- d. The real property or personal property that was the subject of the Board action is located.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

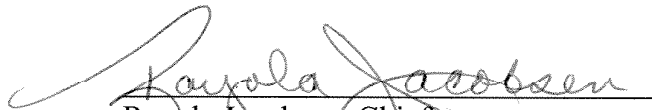
I HEREBY CERTIFY that on this 4TH day of April, 2005, I caused to be served a true and correct copy of the foregoing by the following method to:

Robert Rapelyea Howell #12245-023
FCI Lompoc
Federal Correctional Institution
3600 Guard Road
Lompoc, CA 93436

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Stephanie N. Guyon
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail



Rayola Jacobsen, Chief
Bureau of Occupational Licenses

U.S. Courts
Rec'd Filed

NOV 04 2004

Cameron S. Burke
Clerk, Idaho

1 THOMAS E. MOSS
2 UNITED STATES ATTORNEY
3 WENDY J. OLSON
4 ASSISTANT UNITED STATES ATTORNEY
5 DISTRICT OF IDAHO
6 MK PLAZA IV
7 800 PARK BOULEVARD, STE. 600
8 TELEPHONE: (208) 334-1211

9 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 ROBERT RAPELYEA HOWELL,

14 Defendant.

) Cr. No. **CR 04-0221-S-EJL**

) INFORMATION

) 18 U.S.C. §§2252(a)(4)

15 THE UNITED STATES ATTORNEY CHARGES that:

16
17 COUNT ONE
18 (Vio. 18 U.S.C. §2252(a)(4))

19 Between on or about June 1, 2002, and September 30, 2002, in the District of Idaho, the
20 defendant, ROBERT RAPELYEA HOWELL, did knowingly possess one or more matter which
21 contains visual depictions that had been shipped and transported in interstate and foreign
22 commerce, and which were produced using materials which had been mailed or so shipped or
23 transported, by any means including by computer, and such materials were produced involving
24 the use of minors, that is, persons under the age of 18 years, engaging in sexually explicit
25 conduct, as that term is employed and defined in Title 18, United States Code, Section 2256(2),
26 including the following files: 705_YT_1_JPE; ALIA002_1_JPE; ANGELINA001_1_JPE;
27 ANGY_ROMINA002_1_JPE; ANGY_ROMINA021_1_JPE; CONCHITA004_1_JPE;

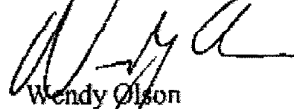
28 INFORMATION

1

1 LAURA005_1 .JPE; and ROMO11_1_.JPE. ; all in violation of Title 18, United States Code,
2 Section 2252(a)(4).

3 Dated this 30 day of November, 2004.

4
5 THOMAS E. MOSS
6 United States Attorney

7 
8 Wendy Olson
9 Assistant United States Attorney
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28 INFORMATION

2

CRIMINAL PROCEEDINGS - Waiver of Indictment and Plea

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Judge Edward J. Lodge
Case No. Cr. 04-221-S

Date: November 15, 2004
Deputy Clerk: Carol Vaughn
Reporter: Lisa Yant

UNITED STATES OF AMERICA vs Robert Rapelyea Howell

Counsel for United States: Rafael M. Gonzalez, Jr.

Defendant: Mark Manweiler

Probation Officer: Steve Cole

- (X) True Name: Robert Rapelyea Howell - Sworn
- (X) Waiver of Indictment signed in open Court - case proceeded by Superseding Information.
- (X) Defendant waived the reading of the Superseding Information.
- (X) At the request of the Court, Counsel for Plaintiff stated for the record the elements and evidence of the charges.

Maximum Penalty - Class D Felony

5 years and/or \$250,000.00 fine

3 years supervised release

- (X) Defendant's Constitutional Rights explained.
- (X) Defendant waived the reading of the Plea Agreement.
- (X) Defendant waived the application of Blakely v Washington.
- (X) Defendant pleaded guilty as charged in the Superseding Information. Plea was pursuant to a written Plea Agreement. Court accepted the plea.

Sentencing set for January 24, 2005 at 3:00pm

Presentence report ordered. Original report due to Counsel December 20th. Notification of objections by Counsel and motions for departure, either upward or downward due January 3rd. Final report due to Court and Counsel January 18th.

UNITED STATES OF AMERICA vs Robert Rapelyea Howell
Case No. Cr. 04-221-S
November 15, 2004
Page 2

Defendant released pursuant to the terms and conditions of the Pretrial Release Order modified in open court today as follows: The "no unsupervised contact with minors" condition shall exclude immediate family members. Also, the defendant shall transfer his contract with his Internet provider to his wife's name and shall not obtain any new Internet service account and shall not have access to his wife's Internet service account.

Copy to: USMS/US Probation

Time: 3:20 - 4:00pm
Boise

VOLUNTARY SURRENDER OF LICENSURE

I, ROBERT RAPELYEA HOWELL, hereby voluntarily surrender my license to practice as a social worker in the State of Idaho. I agree and consent that the surrender of my license to practice as a social worker is done without an order, order to show cause, hearing, or any other proceeding compelling its surrender. In view of my alleged failure to comply with the Social Work Licensing Act, title 54, chapter 32, Idaho Code, and the rules promulgated by the Idaho State Board of Social Work Examiners ("Board"), and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part, I voluntarily surrender my license to practice as a social worker.

I understand that I have the right to a hearing, the right to confront and cross-examine witnesses, the right to present evidence and testimony on my behalf, the right to appeal and all other rights accorded to me by the Idaho Administrative Procedures Act, title 67, chapter 52, Idaho Code, and the laws and rules governing the practice of social work, title 54, chapter 32, Idaho Code. I hereby freely and knowingly waive these rights without further process as a resolution of any claims or allegations which might otherwise be brought against me by the Board.

I acknowledge that in surrendering my license to practice as a social worker, I am not making any admissions; however, I specifically waive the right to contest this relinquishment in any subsequent proceeding. I acknowledge that the Board has jurisdiction to proceed against my license pursuant to Idaho Code § 54-3204. I understand that, pursuant to Idaho Code § 54-3211, the Board will enter an order either revoking or suspending my license to practice as a social worker based upon my voluntary surrender of my license.

I understand and acknowledge that by surrendering my license to practice as a social worker all of the privileges associated with it are hereby surrendered, until such time as I am again properly licensed.

I understand that to regain a license to practice as a social worker in the State of Idaho, I must re-apply to the Board pursuant to the provisions of title 54, chapter 32, Idaho Code, and all applicable rules and orders entered against me by the Board.

I waive refund of any payments made by me in connection with my license under the Idaho Social Work Licensing Act and any rules promulgated thereunder.

Name of Licensee: Robert Rapelyea Howell License No.: LCSW-484

Address of Licensee: 1502 N. 21 Boise 83702
street city zip

Signature of Licensee or Authorized Individual: Robert Rapelyea Howell
Date: 12-17-2004

Signature of Witness: Michelle Bussey Date: 12-17-04

Exhibit 3
Page 1 of 1

RECEIVED

FEB 28 2005
mb

UNITED STATES DISTRICT COURT

U. S. COURTS

District of

Idaho

JAN 24 2005

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

ROBERT RAPELYEA HOWELL

REC'D FILED
CAMERON S. BURKE
CLERK IDAHO

Case Number:

Cr. 04-221-001-S-EJL

USM Number:

12245-023

Mr. Mark Manweiler

Defendant's Attorney

THE DEFENDANT:

X pleaded guilty to count(s) One of a One-Count Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 2252(a)(4)	Possession of Child Pornography	October 2002	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

Count(s) _____ ☐ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

January 24, 2005

Date of Imposition of Judgment

Edward J. Lodge
Signature of Judge

Edward J. Lodge, United States District Judge

Name and Title of Judge

January 24, 2005

Date

Certified to be a true and correct copy of the original filed in the office of Cameron S. Burke, Clerk, United States District Court, District of Idaho.
By: Cameron S. Burke 2-28-05
Deputy Clerk

Exhibit 4
Page 1 of 6

DEFENDANT: Robert Rapelyea Howell
CASE NUMBER: Cr. 04-221-001-S-EJL

Judgment — Page 2 of 6

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 18 months.

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

X The defendant shall surrender to the designated institution or to the United States Marshal for this district:

X at 2:00 ☐ a.m. X p.m. on March 2, 2005

☐ as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

Exhibit 4
Page 2 of 6

DEFENDANT: Robert Rapelyea Howell
CASE NUMBER: Cr. 04-221-001-S-EJL

Judgment—Page 3 of 6

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Robert Rapelyea Howell
CASE NUMBER: Cr. 04-221-001-S-EJL

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall comply with the rules and regulations of the Probation Department.

The defendant shall participate in a program of mental health counseling as directed by the probation officer. Cost of the treatment and testing to be paid by the defendant and the government based upon the defendant's ability to pay.

The defendant shall participate in an evaluation for sexual deviancy as directed by the probation officer.

The defendant shall submit to a search of his home, vehicle, and/or person upon demand of the probation officer, without necessity of a warrant.

The defendant shall provide the probation officer with access to any and all requested financial information.

The defendant shall not incur any new credit charges nor open additional lines of credit without the approval of the probation officer.

The defendant shall not have direct or indirect contact with children under the age of eighteen without the express prior approval of his probation officer.

The defendant shall not reside nor loiter within 100 feet of schoolyards, playgrounds, arcades or other places or establishments and/or areas primarily frequented by children under the age of eighteen.

The defendant shall not engage in any paid occupation or volunteer service that would place him in either direct or indirect contact with minors, unless approved in advance by his probation officer.

The defendant shall successfully complete any course of treatment related to his offense as directed by the probation officer.

The defendant shall participate in polygraph testing to monitor his compliance with supervised release and treatment conditions, at the direction of the probation officer and/or his treatment staff.

The defendant shall not possess nor use a computer or other electronic device connected to the Internet without prior permission from the probation officer.

The defendant shall abide by the computer restriction and monitoring program of the United States Probation Office. Such restrictions will not restrict access or use of the computer for lawful activities such as employment or education.

Exhibit 4
Page 4 of 6

DEFENDANT: Robert Rapelyea Howell
CASE NUMBER: Cr. 04-221-001-S-EJL

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____	\$ _____
--------	----------	----------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Robert Rapelyea Howell
CASE NUMBER: Cr. 04-221-001-S-EJL

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court and mailed to Clerk of the Court, District of Idaho, 550 W. Fort St., MSC 039, Boise, ID 83724.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Exhibit 4
Page 6 of 6